

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY,
Plaintiff,

v.

Civil Action No. 1:10-CV-00071

KRISTIAN E. WARNER,
ANDREW M. WARNER,
MONROE P. WARNER,
Defendants.

MEMORANDUM OPINION AND ORDER

On or about 11 August 2011 Plaintiff filed separate motions To Confirm Non-Jury Trial [DE 70] and To Strike Defendants' Expert Witness Designation [DE 71]. Defendants filed their responses in opposition to the motions [DE 73 and 73 respectively]. 18 August 2011, Plaintiff by its counsel, Jennifer S. Caradine, and Defendants by their counsel, Edward Kohout, appeared before the Court and argued their respective positions. No evidence was presented.

For the reasons stated on the record of the hearing, Plaintiff's Motion To Confirm Non-Jury Trial [DE 70] is **DENIED**.

For the reasons stated on the record of the hearing, Plaintiff's Motion To Strike Defendants' Expert Witness Designation [DE 71] is **DENIED IN PART AND GRANTED IN PART**. Defendants shall have ten (10) days from the date of this order within which to obtain the required Rule 26(a)(2)(B) written report of their designated expert witness, George B. Armistead, and serve a copy of the same on counsel for Plaintiff. In the absence of the timely submission of such written report, Plaintiffs will be precluded from calling of George B. Armistead as their expert witness at the trial of this case.

The clerk is directed to deliver electronic notice of this Memorandum Opinion and Order

affirming the oral rulings made during the hearing to counsel of record.

The clerk is further directed to remove DE 70 and 71 from the docket of motions actively pending before the court.

It is so **ORDERED**.

Dated: 18 August 2011

John S. Kaul

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE